

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
November 12, 2003

ITEM: 13

SUBJECT: Settlement of liability against Ashby Homes for violation of SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with construction activity, Roripaugh Ranch construction site, Temecula, Riverside County. The Regional Board will consider accepting a proposed settlement for the liability. If the Regional Board decides to reject the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Resolution No. R9-2003-0302)
(Rebecca Stewart)

PURPOSE: The Regional Board will consider acceptance of Ashby USA, LLC's (Ashby's) offer to settle liability by adopting tentative Order No. R9-2003-0302 (Document No. 2).

PUBLIC NOTICE: On August 1, 2003, a notice was published in the Riverside Press Enterprise informing the public of the proposed settlement of administrative civil liability. Public notification for this item was also provided via the Regional Board Agenda Notice for the September 10, 2003 meeting.

DISCUSSION: On May 30, 2003 the Executive Officer issued Administrative Civil Liability Complaint No. R9-2003-0227 to Ashby USA, LLC in the amount of \$84,500. In response to the violations alleged in the complaint, Ashby USA, LLC conceded to some of the violations and provided additional information that justified lowering the liability. As an alternative to deliberating on the liability, Ashby USA, LLC submitted a settlement offer on July 24, 2003. (Document No. 3). Ashby USA, LLC's offer proposed the following:

1. Payment of \$51,000 to the State Board's Cleanup and Abatement Account.
2. A commitment to comply with the State Board's Construction Storm Water General Permit.

3. Waiver of the right to petition this matter to the State Board.

On July 28, 2003 the Executive Officer notified Ashby USA, LLC that their settlement offer would require a 30-day public comment period and presentation to the Regional Board for consideration. The public comment period ended on August 30, 2003 and no comments were received. Recent inspections have concluded that the site is in compliance with Order No. 99-08-DWQ.

The settlement offer for consideration has the following positive aspects:

1. Ashby waives right to petition the State Board on this matter;
2. Ashby took immediate action to achieve compliance;
3. The settlement of \$51,000 is a sufficient amount of liability to deter Ashby and other dischargers from non-compliance;
4. The settlement is consistent with the State Board's Water Quality Enforcement Policy; and
5. Settlement allows the Regional Board to redirect enforcement resources of staff.

If the Regional Board decides to reject the settlement, the Regional Board could schedule a public hearing at a future meeting to deliberate on the alleged violations and liability in Complaint No. R9-2003-0227, or withdraw the complaint and reissue a new complaint.

LEGAL
CONCERNS:

None.

SUPPORTING
DOCUMENTS:

1. Location Map.
2. Tentative Order No. R9-2003-0302.
3. Ashby USA, LLC settlement offer dated July 24, 2003.
4. Executive Officer's acceptance of settlement offer dated July 28, 2003.
5. Complaint No. R9-2003-0227.
6. Technical Analysis.
7. Inspection Report, August, 27, 2003.

RECOMMENDATION:

Adopt tentative Order No. R9-2003-0302.